

**EDDY COUNTY BOARD OF COMMISSIONERS
MINUTES OF A REGULAR MEETING
February 1, 2022**

Be it remembered that the Eddy County Board of Commissioners held a regular meeting in the Eddy County Administration Complex-Room 211 on February 1, 2022 at 8:30 a.m. Davis called the meeting to order and led the Pledge of Allegiance and the Salute to the New Mexico State flag. Brannon gave the invocation.

PRESENT:

STEVE MCCUTCHEON	CHAIR, DISTRICT 4
FRED BEARD	VICE-CHAIR, DISTRICT 3
ERNEST CARLSON	COMMISSIONER, DISTRICT 1
JON HENRY	COMMISSIONER, DISTRICT 2
SARAH CORDOVA	COMMISSIONER, DISTRICT 5
ALLEN DAVIS	COUNTY MANAGER
WES HOOPER	COMMUNITY/ADMIN SRVCS DIR
CAS TABOR	COUNTY ATTORNEY
MARK CAGE	SHERIFF
ROBERTA SMITH	FINANCE DIRECTOR
ANISIA CERNA	PROCUREMENT MANAGER
BILLY MASSINGILL	DETENTION WARDEN
TERRA DOUGAN	EXEC ADMIN ASSISTANT
ROXANN BRANNON	HR DIRECTOR
CAROL HENNINGTON	INFO SYSTEMS SUPERVISOR
KEN KEMP	INFO SYSTEMS
STEVE MCCROSKEY	COUNTY PLANNER
JASON BURNS	PUBLIC WORKS DIRECTOR
JOSHUA MACK	FIRE SERVICE DIRECTOR/MARSHAL
JAROD ZUNIGA	FIRE SVC CHIEF DEPUTY ADMIN
BETSY BRADSHAW	FIRE SVC ADMIN ASSISTANT
BRIAN STEPHENS	FACILITIES DIRECTOR
CAROLYN PHILLIPS	CODE ENFORCEMENT
STEPHANIE YBABEN	RED ROCKET MEDIA

TIMED AGENDA

8:30 A.M.:

- 1. PUBLIC COMMENTS/ANNOUNCEMENTS. (THREE MINUTE TIME LIMIT PER PERSON) (WE REQUEST ALL COMMENTS BE RESPECTFUL AND COURTEOUS IN NATURE)** Mary Garwood, with Keep Carlsbad Beautiful, stated the City sponsored Riverblitz, the annual Pecos River clean-up,

extending into the County area. Speaking for her committee, she voiced support of the litter ordinance.

2. PUBLIC HEARING: O-22-122; EDDY COUNTY LITTER AND ILLEGAL DUMPING ORDINANCE.

- a) ***OPEN.** At 8:33 a.m., Carlson moved, seconded by Beard, to open the Public Hearing. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.
- b) **PURPOSE FOR ORDINANCE (BRIEF DESCRIPTION FROM COUNTY MANAGER)** Davis explained the purpose of the ordinance was at the request of the BOCC who wanted more detail around the ability to enforce illegal dumping similar to what State statutes provided.
- c) **STAFF COMMENTS.** McCroskey stated staff had been directed to draft an ordinance to help with illegal dumping and impose fines to be used to help stop the dumping. He noted when the ordinance was advertised, the definition of “unincorporated” was not included. Tabor stated it was not an issue. McCroskey added it was included in today’s version for adoption. Carlson noted the ordinance would allow Code Enforcement to have authority to issue citations.
- d) **PUBLIC COMMENT. THREE MINUTE TIME LIMIT PER PERSON – WE REQUEST THAT ALL COMMENTS BE COURTEOUS AND RESPECTFUL IN NATURE.** None.
- e) **COUNTY ATTORNEY COMMENTS/QUESTIONS.** Tabor stated the change of the definition was a minor change that had been made and discussed, and the document should be moved forward as presented if approved.
- f) **COMMISSIONERS COMMENTS/QUESTIONS.** Cordova thought it was good and felt it would do a lot for Eddy County. Henry agreed. Carlson felt it was a great move for the citizens of the County. It was long needed and the County now would have a chance to put some teeth in the people throwing trash in their neighbor’s yard. Beard felt it was a very good ordinance. He liked the language to protect the people in the County. It was not a beautification-type ordinance, it was going after garbage and was needed. McCutcheon agreed with all the others and stated it followed the principles that it was not going after the individual but if you were harming somebody else, then you were able to be fined. He thought it would be interesting to see if the ordinance would have an effect over the next few years on the tons of trash picked up by Garwood’s committee activities. Beard added that he appreciated what the committee was doing.
- g) **ENTERTAIN A MOTION AND SECOND FROM BOARD.** Carlson moved, seconded by Cordova to approve O-22-122.
 - h) ***BOARD ACTION.**
 - i. **APPROVE/DISAPPROVE ORDINANCE O-22-122; EDDY COUNTY LITTER AND ILLEGAL DUMPING ORDINANCE.**

Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry.
Passed 5-0. O-22-122 was recorded on February 2, 2022 in
Ordinance Book 2 Page 901.

- i) ***ADJOURN HEARING.** At 8:40 a.m., Carlson moved, seconded by Beard, to adjourn the public hearing. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

TRAILING AGENDA:

1. **APPROVE:**
 - a. ***COMMISSION MEETING MINUTES FOR JANUARY 18, 2022.** Henry moved, seconded by Cordova, to approve the Commission Meeting Minutes from January 18, 2022. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.
2. **TREASURER'S REPORT FOR DECEMBER 2021 – LAURIE PRUITT. FYI ONLY.** The December 2021 Treasurer's Report was recorded as Exhibit 2.
3. ***DECEMBER 2021 REVENUE REPORT – ROBERTA SMITH.** Smith stated the County collected \$3.2M in GRT, for a total of \$17M, \$9.4M in oil and gas, which included the big equipment check and, \$5.4M in production. Following discussion, Davis added the County had been blessed in the sense that with the budget outlook and ability to stick to the budget. The actual revenues had exceeded the forecast. He added they would continue to be the good stewards of those revenues and work to accomplish the best for Eddy County and its citizens. Carlson moved, seconded by Cordova, to approve the Revenue Report for December, 2021. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. The December, 2021 Revenue Report was recorded as Exhibit 3.
4. ***BUDGET VS. ACTUAL – DECEMBER REVENUE AND EXPENSES – ROBERTA SMITH.** Smith stated \$108M had been collected and \$79M had been expensed, which included \$24.5M in transfers, bringing the number to 76% overall County-wide in Revenue and about 39% expensed. The General Fund showed \$65.5M collected out of the \$76M revenue budget, being 86% revenue collected in the General Fund. General Fund expenses showed 55% expensed, with \$21M of that transferred out, bringing the number to 34% expensed. The Road Department was about 30% expensed not including encumbrances for road maintenance and the West Loop. Beard moved, seconded by Henry, to approve the Budget v. Actual, December, 2021 Revenue and Expenses Report. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. The Budget v. Actual, December Revenue and Expenses Report was recorded as Exhibit 4.

5. ***FY 2021-2022 2ND QUARTER LODGER'S TAX REPORT – ROBERTA SMITH.** Smith stated \$18K had been collected in revenue with \$54K in expenses. Cordova moved, seconded by Henry, to approve the FY 2021-2022 2nd Quarter Lodger's Tax Report. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. The FY 2021-2022 2nd Quarter Lodger's Tax Report was recorded as Exhibit 5.

6. **FY 2021-2022 MID-YEAR FINANCIAL REVIEW – ROBERTA SMITH.** Smith recapped the original budget. County-wide overall had a \$124.7M budget. Of that, \$39M was salary and benefits with 14 vacant positions. The County came into the current fiscal year with a \$4M surplus from last FY, which was placed into the Capital Improvement Fund. Smith noted there was a possible surplus of \$45.5M by the end of the year. Carlson felt the County was in better shape than it had ever been in. Beard added he had never heard "over budget" in a positive connotation. Cordova felt it was due to the hard work of the County and was appreciative of the budget. Henry stated when you had folks that understood where revenues came from and understood the oil and gas industry and how to budget properly, this showed what could be done and he wished the State of New Mexico would take some of these lessons. He gave kudos to those doing the budget and felt the Department Heads had done a good job living within their budget. McCutcheon thanked Smith for all her hard work and for making the report so easy to understand. The FY 2021-2022 Mid-Year Financial Review was recorded as Exhibit 6.

7. **FY 2022-2023 BUDGET PRIORITIES AND OBJECTIVES – ROBERTA SMITH.** Smith requested the BOCC's thoughts and ideas for priorities and objectives for the upcoming budget. Cordova was interested in the Facilities report from Stephens and looked ahead to the Judicial Complex. She wanted to take care of County employees, and give the County what it needed to be productive and efficient. Henry felt the priorities would be consistent with roads and infrastructure being priority. He also was anxious for the facilities report and felt a plan should be put in place to understand where we were headed. He felt the County was in a good spot to make good business decisions and not playing catch up later. Henry wanted to make sure the departments had what they needed to get the job accomplished. He wanted to push getting understanding of the building report. Smith stated the County had received the American Rescue Plan monies with the first tranche of \$5M having been received and an additional one in May. She stated some of that money had been set aside for HVAC improvements to the buildings, Detention improvements, Public Health buildings, Mental Health Services, Emergency Management and Law Enforcement. Carlson agreed with Cordova and Henry about infrastructure and buildings but also wanted an early response trauma team stationed in the Loving area as oil and gas was located south of

Loving. He stated we should continue to support law enforcement; as the County continued to grow it would have to be a priority. Beard felt we could do all of the spoken objectives including the long-standing problems a couple of blocks away and encumber some of that money towards that end. He felt some of Detention and SO problems could be handled that way without going to the tax payers to get it done. McCutcheon felt none of the previous priorities had changed, just maybe the execution of some of the priorities--infrastructure and roads, safety and the remote emergency response facility along with the buildings using some of the current money to lower future operating expenses. He still liked his road and bridge. He would like to see if some of the buildings could be beautified by perhaps xeriscaping. Smith stated an operational increase for departments was in the plan. Davis stated the County improved its efficiency and effectiveness in the monies invested, citing examples such as the baseline survey on the roads and conditions, worked through the priority list within the budget, and Fire and Rescue, all being the best stewards of County monies so that future costs were reasonable. Carlson added that Senator Griggs was introducing a bill at the Legislature for funding of community judicial complexes.

8. ***REQUEST FOR SPECIAL COMMISSION MEETING – ROBERTA SMITH.** Carlson moved, seconded by Beard, to approve the Request for Special Commission Meeting to be held Friday, July 29 at 8:30 a.m., as requested by Smith for year-end financials, approving the final budget and adjustments. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

9. ***APPOINTMENT OF TRACEY HUGHES TO THE LODGER’S TAX BOARD, AND APPROVAL OF R-22-13; 2022 COMMITTEES, BOARDS, AND COMMISSION APPOINTMENTS – WES HOOPER.** Beard moved, seconded by Carlson, to approve the Appointment of Tracy Hughes to the Lodger’s Tax Board. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.
Following discussion, Tabor noted the 2022 Committees, Boards and Appointments had not been voted on. Cordova moved, seconded by Beard, to approve R-22-13, 2022 Committees, Boards and Commission Appointees. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. R-22-13 was recorded as Exhibit 9.

10. ***RESOLUTION AND AGREEMENT CONSENT AGENDA:** Since all of the items listed below have been distributed to the Commissioners in advance for review and are of a routine and non-controversial nature, they will be enacted by a single motion. Any Commissioner or the County Manager may remove an item from this Resolution and Agreement Consent Agenda if separate discussion is desired. Any item so removed shall be placed on the Trailing Agenda immediately following the approval

of this Resolution and Agreement Consent Agenda or later, at a specific time or place on the Trailing Agenda.

a. RESOLUTIONS:

- i. R-22-08; AUTHORIZING THE DWI PROGRAM TO SUBMIT AN APPLICATION FOR FY23 LOCAL DWI AND GRANT DISTRIBUTION FUNDS – CYNTHIA SHARIF.
- ii. R-22-12; FY 2021-2022 DFA 2ND QUARTERLY REPORT – ROBERTA SMITH.
- iii. R-22-14; APPROVE FY 2022-2023 BUDGET PREPARATION METHODOLOGY PROCESS – ROBERTA SMITH.
- iv. R-22-15; DISPOSAL, REMOVAL, OR REVISE ITEMS IN THE EDDY COUNTY INVENTORY/ASSETS – JESSICA STYGAR.
- v. R-22-16; EDDY COUNTY RECORDS RETENTION AND DISPOSITION POLICY – JESSICA STYGAR.
- vi. R-22-18; OPPOSING THE 2021 ADOPTED NEW MEXICO CONGRESSIONAL DISTRICTS – ALLEN DAVIS.

b. AGREEMENTS:

- i. A-22-04; SPARKS SERVICE CONTRACT – ARTESIA ASSESSOR’S OFFICE – GEMMA FERGUSON.
- ii. A-22-07; STATEMENT OF ASSURANCES FOR FY23 LOCAL GRANT AND DISTRIBUTION FUNDING – CYNTHIA SHARIF.
- iii. A-22-08; MOU BETWEEN THE EDDY COUNTY DWI PROGRAM AND THE DEPARTMENT OF FINANCE AND ADMINISTRATION – CYNTHIA SHARIF.
- iv. A-22-09; APPLICATION COVER SHEET FOR THE EDDY COUNTY DWI PROGRAM FY23 APPLICATION FOR LOCAL DWI GRANT AND DISTRIBUTION FUNDS – CYNTHIA SHARIF.
- v. A-22-10; PDS MAINTENANCE SUPPORT AGREEMENT – HUMAN RESOURCES – ROXANN BRANNON.
- vi. A-22-11; EQUIPMENT SERVICE CONTRACT WITH SPARKS FOR COPIER IN HUMAN RESOURCES DEPARTMENT – ROXANN BRANNON.
- vii. A-22-12 – PROFESSIONAL DOCUMENT SYSTEMS MAINTENANCE CONTRACT – COMMUNITY SERVICES.
- viii. A-22-13; MOU FOR ISFSI LIVE FIRE INSTRUCTOR TRAINING PROGRAM – JOSHUA MACK.
- ix. A-22-14; LOGISTICAL SUPPORT FOR THE LIVE FIRE INSTRUCTOR TRAINING PROGRAM – JOSHUA MACK.

Beard requested R-22-18 be pulled for discussion. Henry moved, seconded by Carlson, to approve the Resolution and Agreement Consent Agenda, pulling R-22-18 for discussion. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

Davis noted R-22-18 was modeled after the Lea County resolution expressing concern and opposition about splitting the counties and municipalities. He added the Republican Party of NM brought a lawsuit against the boundaries of the Congressional Districts approved by the Legislature in the Special Session. McCutcheon stated it was an attempt to water down the voices of Lea and Eddy County collectively. He supported it 100%. Henry stated the boundaries went against the recommendation of their own committees. Carlson added that the Speaker of the House had stated that he was going to wipe out the Republican vote. Beard stated it was obviously gerrymandering, which was illegal. Davis stated the approved Resolution would be sent to the Secretary of State and the Legislature.

Beard moved, seconded by Carlson, to approve R-22-18, Opposing the 2021 Adopted New Mexican Congressional Districts. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0. R-22-08, R-22-12, R-22-14 through R-22-16, R-22-18 were recorded as Exhibits 10.a.i. through 10.a.vi., respectively. A-22-04, A-22-07 through A-22-14 were recorded as Exhibits 10.b.i. through 10.b.ix., respectively.

11. **ELECTED OFFICIAL/DEPARTMENT UPDATES.** Cage spoke to the discussion of step increases. He encouraged the Commission to seriously consider the cap on the step increases, and felt there were a lot of people in the County who deserved that. He stated the recording systems of law enforcement in the cars and body cams were insufficient, aging out and were causing problems. He added Fire Services were looking at putting some in their vehicles. He stated they would receive an increase in the Law Enforcement Protection Fund which could be helpful. He encouraged the BOCC to consider funding a new judicial complex, adding he and the Warden could help each other if they were in the same area. He commended the BOCC for making the loop road happen. He spoke to HB156 at the Legislature making possession of any high-capacity magazine over 10 rounds a felony, adding it pertained also to law enforcement off duty. The SENM College was looking for an interim-President. He, his wife and son were delegates for the State Republican Convention. He would be representing NM in DC on the Executive Board of National Sheriffs' Association.

Hooper had been informed that the Governor had appointed someone to oversee the federal funding coming in for COVID. He was told to get a letter in for any funding the County was looking for. He sent a letter of consideration to Mr. Chavez for \$5.5M for the plan and design of the courthouse and detention center; it might help with the projects.

Stephens updated on the facilities master plan. He noted it would not be a quick process, as some of the info would not be ready for the upcoming budget cycle. He stated the vendor knew that the Courthouse and Detention Center were priorities. He reminded that the weather would be miserable at the end of the week. Henry inquired of the jail presentation from the past and requested to see a copy of it. Stephens anticipated the engineers to come on the first visit in a week or two, starting at the Courthouse to identify the issues. He looked at 10 to 16 months for it to come to fruition. Carlson requested to see the ideas before any xeriscaping was done.

12. **LEGISLATIVE UPDATES.** Davis felt the week in Santa Fe was effective. Strategies 360 was helping provide monitoring and lobbying for the County. He read a report from Ms. Currier on the legislature and bills related to SENM. He gave a summary of bills and joint resolutions presented and the effects on industry and general population, if passed.

BREAK: 10:22 AM – 10:27 AM

13. ***TRAVEL REQUEST CONSENT AGENDA:** Since all of the items listed below have been distributed to the Commissioners in advance for review and are of a routine and non-controversial nature, they will be enacted by a single motion. Any Commissioner or the County Manager may remove an item from this Travel Request Consent Agenda if separate discussion is desired. Any item so removed shall be placed on the Trailing Agenda immediately following this Travel Request Consent Agenda or later, at a specific time or place on the Trailing Agenda.

PRIOR

- a. **BRANNON PORCH ATTENDED MANAGING EMERGENCY MEDICAL SERVICES R0150 COURSE IN EMMITSBURG, MD FROM JANUARY 1 THRU JANUARY 15, 2022.**
- b. **LAKEVIUS TURNER AND AMANDA KELLER ATTENDED ADVANCED DV AND SEXUAL ASSAULT TRAINING IN LAS VEGAS, NV FROM JANUARY 30 THRU FEBRUARY 2, 2022.**

FUTURE: None.

Beard moved, seconded by Henry, to approve the Travel Request Consent Agenda. Voting yes: Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

14. **EMERGENCY BUSINESS.** None.

15. **LEGISLATORS AND ELECTED OFFICIALS' COMMENTS/ANNOUNCEMENTS/UPDATES.** Cage stated a GeoBond for \$2M for SENM College would be presented and he urged to bring up the subject with legislators.
16. **COUNTY MANAGER'S COMMENTS/ANNOUNCEMENTS/UPDATES.** Davis reported on the Holtec Bill that would stop any progress for an interim storage facility. He noted it could have consequences for WIPP. Working with Fire and Rescue, he requested Mack to collect data concerning the fire and emergency responses and actions Eddy County was providing to Loving. He stated the availability of volunteers to support Fire and Rescue was diminishing. He felt additional staff may be needed to help meet the response requirements to maintain and improve the ISO ratings. Davis reported January had nearly double the COVID cases of any month in the past 18 months, being 3,580 cases. There were 166 vaccinations given at the clinic on Monday. Three opportunities had been scheduled to distribute the limited number of test kits Eddy County had received. He noted the budget process was starting with an overview given to the BOCC in March/April.
17. **COUNTY COMMISSIONERS' COMMENTS/ANNOUNCEMENTS/UPDATES.** Carlson spoke to the minimum wage study and the LFC report stating a family of four making \$22K a year, minimum wage, would be making the equivalent of tax-free \$104K a year if all available assistance applied for was granted. The GeoBond would benefit industry in all of New Mexico, not just SENM. He reiterated the need to study the health care in Eddy County and regionally and see what the County could do to better provide emergency services for the citizens.

Beard praised Representative Townsend for House Joint Resolution 11 to allow school choice and a range of educational opportunities for parents to consider for their children, adding the NM education system was broken and the State was dead last despite billions being pumped into the system. The amendment would also break up the PED and go back to state-wide elected school board members.

Cordova thanked all working on behalf of Eddy County. She had toured a recovery program facility while in Santa Fe that had a lot of community involvement. She would like to discuss that possibility with the County. It was becoming clear that people not involved with Eddy County felt entitled to make big decisions on behalf of the residents. She felt it was important to continue pushing out messages and what benefitted our residents and families.

Henry appreciated this group of Commissioners, the Sheriff and all for meaning what we say and doing what we say, and not just talking about it every three years when it was the election cycle. Safety had been a

priority since he had been on the BOCC. He applauded Carlson for getting the trash ordinance done. He would like to see the Board take action against HB6.

McCutcheon agreed with all that had been said.

18. **EXECUTIVE SESSION:** The Board may go into Executive Session in accordance with the State of New Mexico Open Meetings Act, Section 10-15-1-H (7), which authorizes the Board of County Commissioners to go into Executive Session to discuss:

a. **THREATENED OR PENDING LITIGATION.**

i. **ATTORNEY GENERAL OF NEW MEXICO OPIOID SUIT – CAS TABOR.**

At 10:50 a.m., Henry moved, seconded by Beard, to go into executive session, returning at 11:00 a.m. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

19. ***RE-OPEN MEETING.** At 11:00 a.m., Henry moved, seconded by Cordova, to approve re-open the meeting. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

20. **TAKE ACTION, IF ANY, ON ANY MATTER RELATING TO THE EXECUTIVE SESSION.**

a. ***THREATENED OR PENDING LITIGATION**

i. **ATTORNEY GENERAL OF NEW MEXICO OPIOID SUIT – CAS TABOR.**

McCutcheon stated the action to be taken by the BOCC would authorize the County Attorney to resolve the Opioid AG suit with the County receiving 55% and the State receiving 45% and to sign any agreements to accomplish that and pertaining to the suit. Tabor added that the 55% the County would get was statewide and a program would determine how that 55% would be split amongst the various counties in New Mexico. Davis added it would be based on criteria established by committee. Henry moved, seconded by Carlson, to approve the action to be taken by the BOCC. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

21. ***ADJOURN.** At 11:05 a.m., Beard moved, seconded by Carlson to adjourn the meeting. Voting yes: McCutcheon, Beard, Carlson, Cordova and Henry. Passed 5-0.

~Asterisks denote vote is required~

EDDY COUNTY BOARD OF COMMISSIONERS

CHAIR

ATTEST: _____
COUNTY CLERK

DATE: _____